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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,695	11/25/2003	Russell Bonaventura	LEAP:126US	6297
24041	7590	06/14/2006	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER

2872

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/721,695

Applicant(s)

BONAVENTURA ET AL.

Examiner

Joshua L. Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to Amendment filed May 22, 2006. All applicant's arguments have been considered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 3, 5, 6, 9, 10 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kraft (US 6,049,420).

Regarding claims 2, 16 and 17, Kraft discloses an upper stage (2), a slide mount (3), a rod (4) and a releasable attachment means (21) wherein the releasable attachment means is arranged to attach the rod to the slide mount (Fig. 2), the upper stage supports the slide mount (Fig. 1), the upper stage is arranged to move in a first direction in response to a movement of the rod in the first direction (col. 2 lines 53-55) and the slide mount is arranged to move in a second direction, orthogonal to the first direction, in response to a movement of the rod in the second direction (col. 2 lines 56-59). Fig. 2 shows the rod attached to the slide mount through the gears inside the upper stage and slide mount.

Regarding claim 3, Kraft discloses the rod is substantially hollow, circular tube (Fig. 2). Fig. 2 shows in the cut away portion of the rod that the inside of the rod appears to be hollow.

Regarding claim 5, Kraft discloses the rod comprises a distal portion, an intermediate portion and a proximate portion (Fig. 2).

Regarding claim 6, Kraft discloses the proximal portion is attached to the slide mount, the intermediate portion connects the distal end and the proximal portion and the distal portion is disposed in space substantially perpendicular to a longitudinal axis of the stage assembly (Fig. 2).

Regarding claim 9, Kraft discloses the rod comprises a plurality of grooves substantially parallel to each other (Fig. 2). The crossed marks on the rod shown in Fig. 2 include portions that are substantially parallel.

Regarding claim 10, Kraft discloses the rod comprises a plurality of protuberances that are substantially parallel to each other (Fig. 2). The raised portions between the marks on the rod shown in Fig. 2 are substantially parallel.

Regarding claim 18, Kraft discloses a slide mount guide fixedly connected to the slide mount, where the releasable attachment means is arranged to attach the rod to the slide mount guide (Figs. 1 and 2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft (US 6,049,420) in view of Leitz Service ("Ergolux B 0 1-Ersatzteilliste").

Kraft teaches the invention as claimed but lacks reference to the type of releasable attachment and a joystick. Leitz Service teaches the releasable attachment means is a screw (59). Element, 59, is described as a Schraube, which translates to mean a screw. Leitz Service teaches a joystick (25), wherein the releasable attachment means is arranged to attach the joystick to the slide mount (Figure). Leitz Service teaches the rod being substantially solid (Figure). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Kraft invention include the attachment means and joystick of Leitz Service for the purpose of reliably attaching the rod to allow operation without it falling off and easy movement of the slide mount.

Claims 7, 12-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft (US 6,049,420) in view of Nishida (US 2003/0169492).

Kraft teaches the invention as claimed but lacks reference to a gripping means. Nishida further teaches a gripping means (12) arranged to be detachably secured to the rod (Fig. 7). Fig. 7 shows a screw used to attach the gripping means (12) to the rod. Nishida further teaches the distal portion of the rod tapering at the end (Fig. 6). It would have been obvious to a person of

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ordinary skill in the art at the time the invention was made to have the Kraft rod be have the features as taught by Nishida for the purpose of allowing the rod to be easier to grip and weigh less to minimize the momentum transfer to the slide mount.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraft (US 6,049,420) in view of Yoshioka (US 5,907,157).

Kraft teaches the invention as claimed but lacks reference to a square gripping means. Yoshioka teaches the use of a substantially square (28) gripping means, rotatable plate arranged to be detachable secured to the distal portion of the rod (Fig. 2; col. 4 lines 19-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Kraft rod include the Yoshioka square attachment for the purpose of allowing the user to grip the rod in a more comfortable position to allow easier movement of the upper stage through the rod.

### *Response to Arguments*

Applicant's arguments filed May 22, 2006 have been fully considered but they are not persuasive.

Applicant argues that Kraft fails to teach merely a rod. There are no limitations in the claim language that requires that "a rod" have any sort of structural limitations. Therefore the broadest reasonable interpretation of "a rod" is satisfied by the coaxial drive (4).

Applicant argues that the coaxial drive is not fastened to the slide mount but is instead fastened to the fixed stage plate. The applicant points out the reference states the coaxial drive is

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fixedly screwed to the stage fork of a microscope or is fastened thereto in some other manner (col. 2 lines 36-38). The next sentence states that the coaxial drive is connected to the X and Y carriages and is functionally engaged to the carriages. The examiner interprets “functionally engaged” as being within the broadest reasonable interpretation of fastened.

Applicant argues that the coaxial drive cannot cause movement of the upper stage in a first direction due to movement of the rod in a first direction and movement of the slide mount in a second direction orthogonal to the first when the rod is moved in a second direction. The claim does not require linear movement of the rod but states only movement. The broadest reasonable interpretation of movement allows for rotational movement which the reference satisfies. As knob (6) is rotated a portion of the drive (4) is rotated to create movement of in a first direction and as the knob (22) is rotated a portion of the drive (4) is rotated to create movement in a second direction. Therefore the reference meets the claimed limitations with regard to the movement of the rod in a first and second direction creating upper stage and slide mount movement in a first and second direction.

Applicant argues that the drive is not releasable. The reference states that the drive is attached with clamps (col. 2 line 48). Clamps are well known to allow releasable attachment.

Applicant argues that the drive is not a joystick. The broadest reasonable interpretation of a joystick includes a rod with two rotating knobs. Therefore the drive is a joystick and therefore the rejection is proper.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLP 



**DREW A. DUNN**  
**SUPERVISORY PATENT EXAMINER**